



ILLINOIS COMMERCE COMMISSION

October 13, 2004

City of Rochelle, an Illinois municipal corporation
Petitioner,

v.

City of Rochelle; Ogle County, Illinois; Illinois Department of Transportation;
Union Pacific Railroad Company; and The Burlington Northern and Santa Fe
Railway Company
Respondents.

T04-0071

Petition for an Order authorizing three (3) new at grade crossings of the City of
Rochelle Streets and one (1) new at grade crossing of Ogle County Highway 17
(Steward Road), an Ogle County highway, with a track belonging to the City of
Rochelle, Illinois, and directing the installation of crossing protection.

Mr. Alan Cooper
Attorney
400 May Mart Drive
Rochelle, IL 61068

Dear Mr. Cooper:

Receipt is acknowledged of the original and three (3) copies of the Petition filed October 12, 2004 in
the above matter.

**All future correspondence/pleadings should be filed with an original and two (2) copies and
addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce Commission,
527 E. Capitol Avenue, Springfield, IL 62701 or you may file electronically through E-Docket if you
have an account. To apply for an account, please log on to www.icc.state.il.us and apply for an E-
docket account.**

Processing and Information Section

kl

cc: Mr. Victor A. Modeer, IDOT
Mr. W. Douglas Werner, BNSF
Ms. Cheryl Townlian, BNSF
CT Corporation System, BNSF
Mr. Mack Shumate, UP
CT Corporation System, UP
Mr. Curtis Cook, Ogle County Highway Engineer
City Manager/Clerk, City of Rochelle

COPY

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

RECEIVED
OCT 12 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

CITY OF ROCHELLE, an Illinois municipal corporation)
Petitioner)

V.)

CITY OF ROCHELLE; OGLE COUNTY, ILLINOIS;)
ILLINOIS DEPARTMENT OF TRANSPORTATION;)
UNION PACIFIC RAILROAD COMPANY; and THE)
BURLINGTON NORTHERN AND SANTA FE RAILWAY)
COMPANY)
Respondents)

No. TO4-0071

Petition for an Order authorizing three (3) new at grade)
crossings of the City of Rochelle Streets and one (1) new)
at grade crossing of Ogle County Highway 17 (Steward Road),)
an Ogle County highway, with a track belonging to the City of Rochelle,)
Illinois, and directing the installation of crossing protection.)

PETITION

NOW COMES the City of Rochelle, an Illinois municipal corporation, of Ogle County, and respectfully requests that the Illinois Commerce Commission enter an Order authorizing three (3) new at grade crossings of the City of Rochelle Streets and one (1) new at grade crossing of County Highway 17 (Steward Road), an Ogle County road. The City of Rochelle Streets are located in Township 40 North, Range 2 East in Sections 30 and 31, Ogle County and the Ogle County Crossing is located in Township 40 North, Range 2 East in Section 31, Ogle County as shown on Petitioner's Exhibit "1", a copy of which is attached hereto. Of the three crossings in the City of Rochelle, two of the crossings are located on Caron Road, one approximately $\frac{3}{4}$ mile south of Creston Road and the other located approximately $1 \frac{1}{4}$ mile south of Creston Road. The third crossing is located on Steam Plant Road at the intersection with Caron Road. The fourth crossing

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is located on County Highway 17 (Steward Road) at the intersection with Caron Road, and is also within the City limits.

1. Petitioner has offices at 420 North Sixth Street, Rochelle, Illinois 61068 and proposes to transport rail cars between the existing Rochelle City Lead Track and IRE (Illinois River Energy, an ethanol production plant).

2. Respondent City of Rochelle, through City of Rochelle's City Manager, Mr. Joseph H. Salitros, has offices at 420 North Sixth Street, Rochelle, Il 61068.

3. Respondent Ogle County, through Ogle County Engineer, Mr. Curtis Cook, has offices at Illinois Route 2 South, Oregon, Illinois 61061.

4. Respondent Union Pacific Railroad Company ("UP") is a Delaware corporation qualified to do business in the State of Illinois, whose registered agent and registered office are c/o CT Corporation Systems, 208 S. LaSalle Street, Chicago, Illinois 60604, and whose counsel is Mack Shumate, Jr., 101N. Wacker Drive, Chicago, Illinois 60606.

5. Respondent The Burlington Northern and Santa Fe Railway Company ("BNSF") is a Delaware corporation qualified to do business in the State of Illinois, whose registered agent and registered office are c/o CT Corporation Systems, 208 S. LaSalle Street, Chicago, Illinois 60604, and whose counsel is Mike Sazdanoff, c/o Kenneth J. Wysoglad & Associates, 188 South Clinton, Suite 700, Chicago, Illinois 60661

6. City of Rochelle, upon receipt of pending grants, proposes to construct or cause to be constructed and own a new 2 mile lead track which runs in a southerly direction from the existing City lead track near Wiscold Drive and Caron Road to the proposed IRE ethanol plant. The lead track will be owned by the City of Rochelle and will be located adjacent to Caron Road and its southerly extension, paralleling the BNSF rail line as shown on Petitioner's Exhibit "1", a copy of

which is attached hereto and by this reference made a part of this Petition. The proposed lead track would serve industries along its route which ship and receive goods over the UP and BNSF rail lines.

7. The single lead track is proposed to cross: (i) a two (2) lane City Street (Caron Road), which extends generally north-south in T40N, R2E, Section 30, Ogle County, as shown on aforementioned Exhibit "1" and Petitioner's Exhibit "2" (a copy of which is attached hereto and by this reference is made a part of this Petition); (ii) a two (2) lane east-west City Street (Steam Plant Road) which lies in the south Half of T40N, R2E, Section 30, Ogle County, as shown on aforementioned Exhibit "1" and Petitioner's Exhibit "3" (a copy of which is attached hereto and by this reference is made a part of this Petition); (iii) a two (2) lane City Street (Caron Road), which extends generally north-south in T40N, R2E, Section 31, Ogle County, as shown on aforementioned Exhibit "1" and Petitioner's Exhibit "4" (a copy of which is attached hereto and by this reference is made a part of this Petition). These three (3) new grade crossings are located in the City of Rochelle approximately $\frac{3}{4}$ to $1\frac{1}{4}$ miles south of Creston Road as shown on Exhibit "1".

8. The single track will cross the two (2) lane County Highway 17 (Steward Road) which extends generally east –west in T40N, R2E, Section 31, Ogle County as shown on aforementioned Exhibit "1" and Petitioner's Exhibit "5" (a copy of which is attached hereto and by this reference is made a part of this Petition).

9. The track and at grade crossings will be constructed or caused to be constructed by the City of Rochelle and will be maintained by the Petitioner at the expense of the Petitioner.

10. The grade crossing surface for all four crossings will be an Illinois Department of Transportation approved high type rubber or concrete surface. The grade crossing surface shall

extend through the existing pavement a minimum of three (3) feet beyond the shoulder limits or back of curb as indicated on the aforementioned Exhibits 2, 3, 4 and 5.

11. Anticipated rail traffic on the proposed lead track consists of approximately four (4) blocks of trains per week on demand, with up to forty (40) rail cars each, operating at speeds of up to 10 miles per hour during a twenty-four (24) hour period.

12. Caron Road and Steam Plant Road are part of an urban City Street network that is maintained by the City of Rochelle. Existing roadway surface material is bituminous. The estimated two-way, average daily traffic in the vicinity of the proposed grade crossings is 300. There is a posted speed limit of 40 mph.

13. County Highway 17 (Steward Road) is part of a rural roadway network that is maintained by Ogle County extending from the City of Rochelle to the Village of Steward, Illinois. The existing roadway surface is bituminous. The current (2003) two-way, average daily traffic in the vicinity of the proposed grade crossing is 950. There is a posted speed limit of 55 mph.

14. Due to the projected volume and speed of the railroad traffic on the lead track, coupled with the projected roadway traffic over the proposed crossings at all four locations, said crossings warrant the installation of vehicular traffic crossbuck signs.

15. The installation of vehicular traffic crossbuck signs at the proposed four (4) grade crossings are necessary in the interest of public safety. The cost of installing the vehicular traffic crossbuck signs will be borne by the City of Rochelle, as part of its pending grants. Petitioner will bear the cost of maintaining the vehicular traffic crossbuck signs following installation.

16. The City of Rochelle will restore or caused to be restored from its grant funds all four (4) existing road approaches. The grade crossing surface at all four (4) roads will be high type

rubber or concrete surface. The City of Rochelle will cause to be constructed and installed all four (4) grade crossing surfaces from grant funds. Petitioner will bear the cost of maintaining the grade crossings and surface following the installation.

17. The actual cost of constructing the three (3) Rochelle grade crossings and the Ogle County crossing, including engineering and construction, is not presently known. Completion of the three (3) Rochelle crossings and the Ogle County crossing is anticipated within one (1) month of the entry of an Order in this proceeding granting this requested relief.

18. A pre-hearing conference with all parties meeting at the sites may provide a worthwhile opportunity in order to discuss the details of the proposed three (3) City grade crossings, and the Ogle County grade crossing.

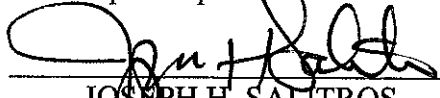
19. The City of Rochelle respectfully requests an expedited hearing on this petition for the reason that one of the industries which will be served by the proposed lead track is a 500,000 square foot warehouse recently constructed by DP Partners, which has a prospective tenant for the warehouse who requires possession during the fall of 2004, with rail service in place.

WHEREFORE, the City of Rochelle prays that the Illinois Commerce Commission schedule a pre-hearing conference at the sites of the proposed grade crossings and after hearings hereon, enter an Order: (a) authorizing construction of the three (3) grade crossings through the streets of the Respondent, City of Rochelle at the locations shown in Exhibits "1", "2", "3" and "4"; (b) directing the Petitioner, City of Rochelle, to bear the cost of maintaining the three (3) City of Rochelle grade crossings, surfaces and vehicular traffic crossbucks; (c) authorizing construction of the one (1) grade crossing through the county highway of Respondent, Ogle County, at the location shown on Exhibits "1" and "5"; (d) directing the Petitioner, City of Rochelle, to bear the

cost of maintaining the Ogle County grade crossing, surface and vehicular traffic crossbucks; and
(e) granting such other and further relief as the Commission may deem appropriate.

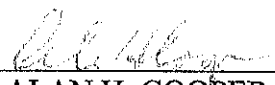
CITY OF ROCHELLE, an Illinois
municipal corporation

BY:


JOSEPH H. SALITROS
City Manager

Attorney for CITY OF ROCHELLE

BY:


ALAN H. COOPER

Attorney at Law
400 May Mart Drive
P.O. Box 194
Rochelle, IL 61068
(815) 562-2677

CERTIFICATE OF SERVICE

The undersigned, Alan H. Cooper, hereby certifies that on the 8th day of October, 2004, he served a copy of the foregoing instrument by depositing the copies in the United States Mail, certified-return receipt requested, postage prepaid, at Rochelle, Illinois, to the individuals named on the attached Service List in envelope plainly addressed to each of the following:

City of Rochelle
City Manager
Joseph H. Salitros
420 N. 6th Street
Rochelle, IL 61068

Illinois Department of Transportation
Mr. Vic Modeer, Director
Division of Highways
2300 South Dirksen Parkway
Springfield, IL 62764

Ogle County Engineer
Mr. Curtis Cook
Illinois Route 2 South
Oregon, IL 61061

Union Pacific Railroad Company
c/o CT Corporation Systems
208 S. LaSalle Street
Chicago, IL 60606

Mr. Mack H. Shumate, Jr.
101 N. Wacker Drive
Chicago, IL 60606

The Burlington Northern and Sante Fe
Railway Company
c/o CT Corporation Systems
208 S. LaSalle Street
Chicago, IL 60606

Mr. Michael L. Sazdanoff
Kenneth J. Wysoglad & Associates
188 South Clinton, Suite 700
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ALAN H. COOPER, attorney
for the City of Rochelle